



General Assembly

February Session, 2022

Raised Bill No. 5147

LCO No. 1205



Referred to Committee on GENERAL LAW

Introduced by:
(GL)

***AN ACT CONCERNING PHYSICIAN ASSISTANTS AND THE
PALLIATIVE USE OF MARIJUANA.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-408 of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective January 1, 2023*):

4 As used in this section, sections 21a-408a to 21a-408o, inclusive, as
5 amended by this act, and sections 21a-408r to 21a-408v, inclusive, unless
6 the context otherwise requires:

7 (1) "Advanced practice registered nurse" means an advanced practice
8 registered nurse licensed pursuant to chapter 378;

9 (2) "Cannabis establishment" has the same meaning as provided in
10 section 21a-420;

11 (3) "Cultivation" includes planting, propagating, cultivating, growing
12 and harvesting;

13 (4) "Debilitating medical condition" means (A) cancer, glaucoma,

14 positive status for human immunodeficiency virus or acquired immune
15 deficiency syndrome, Parkinson's disease, multiple sclerosis, damage to
16 the nervous tissue of the spinal cord with objective neurological
17 indication of intractable spasticity, epilepsy or uncontrolled intractable
18 seizure disorder, cachexia, wasting syndrome, Crohn's disease,
19 posttraumatic stress disorder, irreversible spinal cord injury with
20 objective neurological indication of intractable spasticity, cerebral palsy,
21 cystic fibrosis or terminal illness requiring end-of-life care, except, if the
22 qualifying patient is under eighteen years of age, "debilitating medical
23 condition" means terminal illness requiring end-of-life care, irreversible
24 spinal cord injury with objective neurological indication of intractable
25 spasticity, cerebral palsy, cystic fibrosis, severe epilepsy or uncontrolled
26 intractable seizure disorder, or (B) any medical condition, medical
27 treatment or disease approved for qualifying patients by the
28 Department of Consumer Protection and posted online pursuant to
29 section 21a-408/;

30 (5) "Dispensary facility" means a place of business where marijuana
31 may be dispensed, sold or distributed in accordance with this chapter
32 and any regulations adopted thereunder to qualifying patients and
33 caregivers and for which the department has issued a dispensary facility
34 license pursuant to this chapter;

35 (6) "Employee" has the same meaning as provided in section 21a-420;

36 (7) "Institutional animal care and use committee" means a committee
37 that oversees an organization's animal program, facilities and
38 procedures to ensure compliance with federal policies, guidelines and
39 principles related to the care and use of animals in research;

40 (8) "Institutional review board" means a specifically constituted
41 review body established or designated by an organization to protect the
42 rights and welfare of persons recruited to participate in biomedical,
43 behavioral or social science research;

44 (9) "Laboratory" means a laboratory located in the state that is
45 licensed by the department to provide analysis of marijuana and that

46 meets the licensure requirements set forth in section 21a-246;

47 (10) "Laboratory employee" means a person who is registered as a
48 laboratory employee pursuant to section 21a-408r;

49 (11) "Licensed dispensary" or "dispensary" means an individual who
50 is a licensed pharmacist employed by a dispensary facility or hybrid
51 retailer;

52 (12) "Producer" means a person who is licensed as a producer
53 pursuant to section 21a-408i;

54 (13) "Marijuana" means marijuana, as defined in section 21a-240;

55 (14) "Nurse" means a person who is licensed as a nurse under chapter
56 378;

57 (15) "Palliative use" means the acquisition, distribution, transfer,
58 possession, use or transportation of marijuana or paraphernalia relating
59 to marijuana, including the transfer of marijuana and paraphernalia
60 relating to marijuana from the patient's caregiver to the qualifying
61 patient, to alleviate a qualifying patient's symptoms of a debilitating
62 medical condition or the effects of such symptoms, but does not include
63 any such use of marijuana by any person other than the qualifying
64 patient;

65 (16) "Paraphernalia" means drug paraphernalia, as defined in section
66 21a-240;

67 (17) "Physician" means a person who is licensed as a physician under
68 chapter 370; [, but does not include a physician assistant, as defined in
69 section 20-12a;]

70 (18) "Physician assistant" means a person who is licensed as a
71 physician assistant under chapter 370;

72 [(18)] (19) "Caregiver" means a person, other than the qualifying
73 patient and the qualifying patient's physician, physician assistant or

74 advanced practice registered nurse, who is eighteen years of age or older
 75 and has agreed to undertake responsibility for managing the well-being
 76 of the qualifying patient with respect to the palliative use of marijuana,
 77 provided (A) in the case of a qualifying patient (i) under eighteen years
 78 of age and not an emancipated minor, or (ii) otherwise lacking legal
 79 capacity, such person shall be a parent, guardian or person having legal
 80 custody of such qualifying patient, and (B) in the case of a qualifying
 81 patient eighteen years of age or older or an emancipated minor, the need
 82 for such person shall be evaluated by the qualifying patient's physician,
 83 physician assistant or advanced practice registered nurse and such need
 84 shall be documented in the written certification;

85 [(19)] (20) "Qualifying patient" means a person who: (A) Is a resident
 86 of Connecticut, (B) has been diagnosed by a physician, physician
 87 assistant or [an] advanced practice registered nurse as having a
 88 debilitating medical condition, and (C) (i) is eighteen years of age or
 89 older, (ii) is an emancipated minor, or (iii) has written consent from a
 90 custodial parent, guardian or other person having legal custody of such
 91 person that indicates that such person has permission from such parent,
 92 guardian or other person for the palliative use of marijuana for a
 93 debilitating medical condition and that such parent, guardian or other
 94 person will (I) serve as a caregiver for the qualifying patient, and (II)
 95 control the acquisition and possession of marijuana and any related
 96 paraphernalia for palliative use on behalf of such person. "Qualifying
 97 patient" does not include an inmate confined in a correctional institution
 98 or facility under the supervision of the Department of Correction;

99 [(20)] (21) "Research program" means a study approved by the
 100 Department of Consumer Protection in accordance with this chapter
 101 and undertaken to increase information or knowledge regarding the
 102 growth or processing of marijuana, or the medical attributes, dosage
 103 forms, administration or use of marijuana to treat or alleviate symptoms
 104 of any medical conditions or the effects of such symptoms;

105 [(21)] (22) "Research program employee" means a person who (A) is
 106 registered as a research program employee under section 21a-408t, or

107 (B) holds a temporary certificate of registration issued pursuant to
108 section 21a-408t;

109 [(22)] (23) "Research program subject" means a person registered as a
110 research program subject pursuant to section 21a-408v;

111 [(23)] (24) "Usable marijuana" means the dried leaves and flowers of
112 the marijuana plant, and any mixtures or preparations of such leaves
113 and flowers, that are appropriate for the palliative use of marijuana, but
114 does not include the seeds, stalks and roots of the marijuana plant; and

115 [(24)] (25) "Written certification" means a written certification issued
116 by a physician, physician assistant or [an] advanced practice registered
117 nurse pursuant to section 21a-408c, as amended by this act.

118 Sec. 2. Section 21a-408a of the 2022 supplement to the general statutes
119 is repealed and the following is substituted in lieu thereof (*Effective*
120 *January 1, 2023*):

121 (a) A qualifying patient shall register with the Department of
122 Consumer Protection pursuant to section 21a-408d, as amended by this
123 act, prior to engaging in the palliative use of marijuana. A qualifying
124 patient who has a valid registration certificate from the Department of
125 Consumer Protection pursuant to subsection (a) of section 21a-408d, as
126 amended by this act, and complies with the requirements of sections
127 21a-408 to 21a-408m, as amended by this act, inclusive, shall not be
128 subject to arrest or prosecution, penalized in any manner, including, but
129 not limited to, being subject to any civil penalty, or denied any right or
130 privilege, including, but not limited to, being subject to any disciplinary
131 action by a professional licensing board, for the palliative use of
132 marijuana if:

133 (1) The qualifying patient's physician, physician assistant or
134 advanced practice registered nurse has issued a written certification to
135 the qualifying patient for the palliative use of marijuana after the
136 physician, physician assistant or advanced practice registered nurse has
137 prescribed, or determined it is not in the best interest of the patient to

138 prescribe, prescription drugs to address the symptoms or effects for
139 which the certification is being issued;

140 (2) The combined amount of marijuana possessed by the qualifying
141 patient and the caregiver for palliative use does not exceed five ounces;

142 (3) The qualifying patient has not more than one caregiver at any
143 time; and

144 (4) Any cannabis plants grown by the qualifying patient in his or
145 home is in compliance with subsection (b) of section 21a-408d, as
146 amended by this act, and any applicable regulations.

147 (b) The provisions of subsection (a) of this section do not apply to:

148 (1) Any palliative use of marijuana that endangers the health or well-
149 being of a person other than the qualifying patient or the caregiver; or

150 (2) The ingestion of marijuana (A) in a motor bus or a school bus or
151 in any other moving vehicle, (B) in the workplace, (C) on any school
152 grounds or any public or private school, dormitory, college or university
153 property, unless such college or university is participating in a research
154 program and such use is pursuant to the terms of the research program,
155 (D) in any public place, or (E) in the presence of a person under the age
156 of eighteen, unless such person is a qualifying patient or research
157 program subject. For the purposes of this subdivision, (i) "presence"
158 means within the direct line of sight of the palliative use of marijuana or
159 exposure to second-hand marijuana smoke, or both; (ii) "public place"
160 means any area that is used or held out for use by the public whether
161 owned or operated by public or private interests; (iii) "vehicle" means a
162 vehicle, as defined in section 14-1; (iv) "motor bus" means a motor bus,
163 as defined in section 14-1; and (v) "school bus" means a school bus, as
164 defined in section 14-1.

165 Sec. 3. Section 21a-408c of the 2022 supplement to the general statutes
166 is repealed and the following is substituted in lieu thereof (*Effective*
167 *January 1, 2023*):

168 (a) A physician, physician assistant or [an] advanced practice
 169 registered nurse may issue a written certification to a qualifying patient
 170 that authorizes the palliative use of marijuana by the qualifying patient.
 171 Such written certification shall be in the form prescribed by the
 172 Department of Consumer Protection and shall include a statement
 173 signed and dated by the qualifying patient's physician, physician
 174 assistant or advanced practice registered nurse stating that, in such
 175 physician's, physician assistant's or advanced practice registered nurse's
 176 professional opinion, the qualifying patient has a debilitating medical
 177 condition and the potential benefits of the palliative use of marijuana
 178 would likely outweigh the health risks of such use to the qualifying
 179 patient.

180 (b) Any written certification for the palliative use of marijuana issued
 181 by a physician, physician assistant or [an] advanced practice registered
 182 nurse under subsection (a) of this section shall be valid for a period not
 183 to exceed one year from the date such written certification is signed and
 184 dated by the physician, physician assistant or advanced practice
 185 registered nurse. Not later than ten calendar days after the expiration of
 186 such period, or at any time before the expiration of such period should
 187 the qualifying patient no longer wish to possess marijuana for palliative
 188 use, the qualifying patient or the caregiver shall destroy all usable
 189 marijuana possessed by the qualifying patient and the caregiver for
 190 palliative use.

191 (c) A physician, physician assistant or [an] advanced practice
 192 registered nurse shall not be subject to arrest or prosecution, penalized
 193 in any manner, including, but not limited to, being subject to any civil
 194 penalty, or denied any right or privilege, including, but not limited to,
 195 being subject to any disciplinary action by the Connecticut Medical
 196 Examining Board, the Connecticut State Board of Examiners for Nursing
 197 or other professional licensing board, for providing a written
 198 certification for the palliative use of marijuana under subdivision (1) of
 199 subsection (a) of section 21a-408a, as amended by this act, if:

200 (1) The physician, physician assistant or advanced practice registered

201 nurse has diagnosed the qualifying patient as having a debilitating
202 medical condition;

203 (2) The physician, physician assistant or advanced practice registered
204 nurse has explained the potential risks and benefits of the palliative use
205 of marijuana to the qualifying patient and, if the qualifying patient lacks
206 legal capacity, to a parent, guardian or person having legal custody of
207 the qualifying patient;

208 (3) The written certification issued by the physician, physician
209 assistant or advanced practice registered nurse is based upon the
210 physician's, physician assistant's or advanced practice registered nurse's
211 professional opinion after having completed a medically reasonable
212 assessment of the qualifying patient's medical history and current
213 medical condition made in the course of a bona fide health care
214 professional-patient relationship; and

215 (4) The physician, physician assistant or advanced practice registered
216 nurse has no financial interest in a cannabis establishment, except for
217 retailers and delivery services, as such terms are defined in section 21a-
218 420.

219 (d) A physician assistant or nurse shall not be subject to arrest or
220 prosecution, penalized in any manner, including, but not limited to,
221 being subject to any civil penalty, or denied any right or privilege,
222 including, but not limited to, being subject to any disciplinary action by
223 the Connecticut Medical Examining Board, Board of Examiners for
224 Nursing [,] or other professional licensing board, for administering
225 marijuana to a qualifying patient or research program subject in a
226 hospital or health care facility licensed by the Department of Public
227 Health.

228 (e) Notwithstanding the provisions of this section, sections 21a-408 to
229 21a-408b, inclusive, as amended by this act, and sections 21a-408d to
230 21a-408o, inclusive, as amended by this act, a physician assistant or an
231 advanced practice registered nurse shall not issue a written certification
232 to a qualifying patient when the qualifying patient's debilitating medical

233 condition is glaucoma.

234 Sec. 4. Section 21a-408d of the 2022 supplement to the general statutes
235 is repealed and the following is substituted in lieu thereof (*Effective*
236 *January 1, 2023*):

237 (a) Each qualifying patient who is issued a written certification for the
238 palliative use of marijuana under subdivision (1) of subsection (a) of
239 section 21a-408a, as amended by this act, and the caregiver of such
240 qualifying patient, shall register with the Department of Consumer
241 Protection. Such registration shall be effective from the date the
242 Department of Consumer Protection issues a certificate of registration
243 until the expiration of the written certification issued by the physician,
244 physician assistant or advanced practice registered nurse. The
245 qualifying patient and the caregiver shall provide sufficient identifying
246 information, as determined by the department, to establish the personal
247 identity of the qualifying patient and the caregiver. If the qualifying
248 patient is under eighteen years of age and not an emancipated minor,
249 the custodial parent, guardian or other person having legal custody of
250 the qualifying patient shall also provide a letter from both the qualifying
251 patient's care provider and a physician who is board certified in an area
252 of medicine involved in the treatment of the debilitating condition for
253 which the qualifying patient was certified that confirms that the
254 palliative use of marijuana is in the best interest of the qualifying
255 patient. A physician may issue a written certification for the palliative
256 use of marijuana by a qualifying patient who is under eighteen years of
257 age, provided such written certification shall not be for marijuana in a
258 dosage form that requires that the marijuana be smoked, inhaled or
259 vaporized. The qualifying patient or the caregiver shall report any
260 change in the identifying information to the department not later than
261 five business days after such change. The department shall issue a
262 registration certificate to the qualifying patient and to the caregiver and
263 may charge a reasonable fee, not to exceed twenty-five dollars, for each
264 registration certificate issued under this subsection. Any registration
265 fees collected by the department under this subsection shall be paid to
266 the State Treasurer and credited to the General Fund.

267 (b) Any qualifying patient who is eighteen years of age or older may
 268 cultivate up to three mature cannabis plants and three immature
 269 cannabis plants in the patient's primary residence at any given time,
 270 provided such plants are secure from access by any individual other
 271 than the patient or patient's caregiver and no more than twelve cannabis
 272 plants may be grown per household.

273 (c) A dispensary shall not dispense any marijuana products in a
 274 smokable, inhalable or vaporizable form to a qualifying patient who is
 275 under eighteen years of age or such qualifying patient's caregiver.

276 (d) Information obtained under this section shall be confidential and
 277 shall not be subject to disclosure under the Freedom of Information Act,
 278 as defined in section 1-200, except that reasonable access to registry
 279 information obtained under this section shall be provided to: (1) State
 280 agencies, federal agencies and local law enforcement agencies for the
 281 purpose of investigating or prosecuting a violation of law; (2)
 282 physicians, physician assistants, advanced practice registered nurses
 283 and pharmacists for the purpose of providing patient care and drug
 284 therapy management and monitoring controlled substances obtained by
 285 the qualifying patient; (3) public or private entities for research or
 286 educational purposes, provided no individually identifiable health
 287 information may be disclosed; (4) a licensed dispensary for the purpose
 288 of complying with sections 21a-408 to 21a-408m, inclusive; as amended
 289 by this act; (5) a qualifying patient, but only with respect to information
 290 related to such qualifying patient or such qualifying patient's caregiver;
 291 or (6) a caregiver, but only with respect to information related to such
 292 caregiver's qualifying patient.

293 Sec. 5. Section 21a-408m of the 2022 supplement to the general
 294 statutes is repealed and the following is substituted in lieu thereof
 295 (*Effective January 1, 2023*):

296 (a) The Commissioner of Consumer Protection may adopt
 297 regulations, in accordance with chapter 54, to establish (1) a standard
 298 form for written certifications for the palliative use of marijuana issued

299 by physicians, physician assistants and advanced practice registered
300 nurses under subdivision (1) of subsection (a) of section 21a-408a, as
301 amended by this act, and (2) procedures for registrations under section
302 21a-408d, as amended by this act. Such regulations, if any, shall be
303 adopted after consultation with the Board of Physicians established in
304 section 21a-408l.

305 (b) The Commissioner of Consumer Protection shall adopt
306 regulations, in accordance with chapter 54, to establish a reasonable fee
307 to be collected from each qualifying patient to whom a written
308 certification for the palliative use of marijuana is issued under
309 subdivision (1) of subsection (a) of section 21a-408a, as amended by this
310 act, for the purpose of offsetting the direct and indirect costs of
311 administering the provisions of sections 21a-408 to 21a-408m, inclusive,
312 as amended by this act. The commissioner shall collect such fee at the
313 time the qualifying patient registers with the Department of Consumer
314 Protection under subsection (a) of section 21a-408d, as amended by this
315 act. Such fee shall be in addition to any registration fee that may be
316 charged under said subsection. The fees required to be collected by the
317 commissioner from qualifying patients under this subsection shall be
318 paid to the State Treasurer and credited to the General Fund.

319 (c) The Commissioner of Consumer Protection shall adopt or amend
320 regulations, as applicable, in accordance with chapter 54, to implement
321 the provisions of sections 21a-408 to 21a-408g, inclusive, as amended by
322 this act, and section 21a-408l. Notwithstanding the requirements of
323 sections 4-168 to 4-172, inclusive, in order to effectuate the purposes of
324 sections 21a-408 to 21a-408g, inclusive, as amended by this act, and
325 section 21a-408l, and protect public health and safety, prior to adopting
326 or amending such regulations the commissioner shall adopt policies and
327 procedures to implement the provisions of sections 21a-408 to 21a-408g,
328 inclusive, as amended by this act, and section 21a-408, as amended by
329 this act, that shall have the force and effect of law. The commissioner
330 shall post all policies and procedures on the department's Internet web
331 site, and submit such policies and procedures to the Secretary of the
332 State for posting on the eRegulations System, at least fifteen days prior

333 to the effective date of any policy or procedure. Any such policy or
334 procedure shall no longer be effective upon the earlier of either adoption
335 of such policies or procedures as a final regulation pursuant to section
336 4-172 or forty-eight months from October 1, 2021, if such policies or
337 procedures have not been submitted to the legislative regulation review
338 committee for consideration under section 4-170. Such policies and
339 procedures and regulations shall include, but not be limited to, how the
340 department shall:

341 (1) Accept applications for the issuance and renewal of registration
342 certificates for qualifying patients and caregivers;

343 (2) Establish criteria for adding medical conditions, medical
344 treatments or diseases to the list of debilitating medical conditions that
345 qualify for the palliative use of marijuana;

346 (3) Establish a petition process under which members of the public
347 may submit petitions, regarding the addition of medical conditions,
348 medical treatments or diseases to the list of debilitating medical
349 conditions;

350 (4) Establish requirements for the growing of cannabis plants by a
351 qualifying patient in his or her primary residence as authorized under
352 section 21a-408d, as amended by this act, including requirements for
353 securing such plants to prevent access by any individual other than the
354 patient or the patient's caregiver, the location of such plants and any
355 other requirements necessary to protect public health or safety;

356 (5) Develop a distribution system for marijuana for palliative use that
357 provides for:

358 (A) Marijuana production facilities within this state that are housed
359 on secured grounds and operated by producers;

360 (B) The transfer of marijuana between dispensary facilities; and

361 (C) Distribution of marijuana for palliative use to qualifying patients
362 or their caregivers by dispensary facilities, hybrid retailers and delivery

363 services, as such terms are defined in section 21a-420; and

364 (6) Ensure an adequate supply and variety of marijuana to dispensary
365 facilities and hybrid retailers to ensure uninterrupted availability for
366 qualifying patients, based on historical marijuana purchase patterns by
367 qualifying patients.

368 Sec. 6. Section 7 of public act 21-9 is repealed and the following is
369 substituted in lieu thereof (*Effective from passage*):

370 (a) As used in this section:

371 (1) "Advanced practice registered nurse" means an advanced practice
372 registered nurse licensed pursuant to chapter 378 of the general statutes;

373 (2) "Physician" has the same meaning as provided in section 21a-408
374 of the general statutes, as amended by this act;

375 (3) "Physician assistant" has the same meaning as provided in section
376 21a-408 of the general statutes, as amended by this act;

377 [(3)] (4) "Qualifying patient" has the same meaning as provided in
378 section 21a-408 of the general statutes, as amended by this act; and

379 [(4)] (5) "Written certification" has the same meaning as provided in
380 section 21a-408 of the general statutes, as amended by this act.

381 (b) Notwithstanding the provisions of sections 21a-408 to 21a-408n,
382 inclusive, of the general statutes, as amended by this act, or any other
383 section, regulation, rule, policy or procedure concerning the certification
384 of medical marijuana patients, a physician, physician assistant or
385 advanced practice registered nurse may issue a written certification to a
386 qualifying patient and provide any follow-up care using telehealth
387 services during the period beginning on the effective date of this section
388 and ending on June 30, 2023, provided all other requirements for issuing
389 the written certification to the qualifying patient and all recordkeeping
390 requirements are satisfied.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2023</i>	21a-408
Sec. 2	<i>January 1, 2023</i>	21a-408a
Sec. 3	<i>January 1, 2023</i>	21a-408c
Sec. 4	<i>January 1, 2023</i>	21a-408d
Sec. 5	<i>January 1, 2023</i>	21a-408m
Sec. 6	<i>from passage</i>	PA 21-9, Sec. 7

Statement of Purpose:

To authorize physician assistants to perform duties that are similar to the duties that physicians and advanced practice registered nurses are authorized to perform with respect to the palliative use of marijuana.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]